



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request that City Join Amicus Brief in the case of San Jose Mercury News v. City of San Jose, Sixth District Court of Appeal

**MEETING DATE:** March 19, 1997

**PREPARED BY:** City Attorney

**RECOMMENDATION:** The city join the amicus brief in the case of San Jose Mercury News v. City of San Jose.

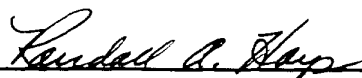
**BACKGROUND:** *Amicus* briefs are filed in various actions which involve matters of wide ranging concern to provide information and additional argument to the court in order to assist the court in understanding all of the issues and arrive at a conclusion.

This case involves an important issue related to the city's ability to maintain the confidentiality of records regarding employee discipline. In this case the San Jose Mercury News sued the City of San Jose to obtain records related to the possible discipline and/or termination of a city fire captain. The city had refused to produce the records based on the exemption contained in the Public Records Act for personnel documents and the general requirement that the city not violate the former employee's right to privacy grounded in the state Constitution. The city won in the trial court and the San Jose Mercury News has appealed. The City of San Jose is seeking to uphold this decision and the City of Lodi is being asked to join the appeal as *Amicus Curiae*.

This case presents an issue of wide ranging importance to cities in that a victory for the San Jose Mercury News could arguably make city personnel records related to employee discipline discoverable pursuant to a public records request. Currently these records are maintained as confidential, thus providing the employee with important privacy protection. Further, the public interest in disclosure is minimal because most information regarding employee discipline reveals very little about the general operation of the city.

**FUNDING:** Not applicable.

Respectfully submitted,

  
Randall A. Hays, City Attorney

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn -- City Manager